

CIVIL CASE INFORMATION STATEMENT

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

2019 OCT -3

A 11:15

KANAWHA COUNTY CIRCUIT COURT

B.C.,

Plaintiff,

CIVIL ACTION: 19-C-984
JUDGE: Webster

v.

UNIVERSITY OF CHARLESTON, INC, d/b/a
THE UNIVERSITY OF CHARLESTON, and
JOHN DOE

Defendants.

Defendant

Days to Answer

Type of Service

UNIVERSITY OF CHARLESTON
2300 MacCorkle Avenue SE
Charleston, WV 25304

30

Personal Service

Original and 3 copies of complaint furnished herewith.

PYMT Type K
Rcpt # 575172 \$200 ☒ \$135 ☐
Iss. Sum. + 1 cc ☐ No Sum. Iss ☐
☒ Ret. to Atty. ☐ \$20cm X ☐
☐ Mailed CM/RM ☐ \$5 clk X ☐
☐ Mailed to sos w/ck# ☐
☐ Sent to ☐ w/ck# ☐ \$15 mdf X ☐

PLAINTIFF: B.C.

CASE NUMBER:

DEFENDANTS: UNIVERSITY OF CHARLESTON, INC, d/b/a THE UNIVERSITY OF CHARLESTON and JOHN DOE

II. TYPE OF CASE:

TORTS	OTHER	CIVIL
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Magistrate Court
<input type="checkbox"/> Professional Malpractice	Contract	<input type="checkbox"/> Petition for Modification of Magistrate Sentence
<input checked="" type="checkbox"/> -Personal Injury	Real Property	<input type="checkbox"/> Miscellaneous Civil
Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other
<input type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	Employment

III. JURY DEMAND: ☐ Yes ☒ No
CASE WILL BY READY FOR TRIAL BY (Month/Year): OCTOBER- 2020

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ YES ☒ NO. IF YES, PLEASE SPECIFY:

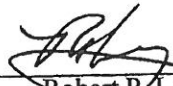
- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary for the visually impaired
- ☒ Other: Not at present

Attorney Name: Robert P. Lorea, WV Bar No. 7476

Representing:

Firm: Lorea Law Office, PLLC
Address: 108 ½ Capitol Street, Ste. 200
Charleston, West Virginia 25301
Telephone: (304) 941-0529

☒ Plaintiff ☐ Defendant
☐ Cross-Complainant
☐ Cross-Defendant

Dated: October 2, 2019Signature: 

Robert P. Lorea
WV State Bar No. 7476

IN THE CIRCUIT COURT OF KANAWHA COUNTY WEST VIRGINIA

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B.C.,

Plaintiff,

v.

Civil Action No.

Judge

19-C-984
Webster

THE UNIVERSITY OF CHARLESTON, INC d/b/a

THE UNIVERSITY OF CHARLESTON; and

JOHN DOE ONE,

Defendants.

COMPLAINT

For her Complaint against the Defendants, on personal knowledge as to her own acts and status, and upon information and belief as to all other facts, Plaintiff B.C.¹ states as follows:

THE PARTIES

1. Plaintiff, B.C. is a resident of Collier County, Florida. At the time of the events giving rise to this Complaint, B.C. was a student attending the University of Charleston, living on its campus located in the City of Charleston, Kanawha County, West Virginia.

¹ Because of the sensitive nature of the matters alleged in the Complaint, the plaintiff employs the longstanding practice of using the initials of the real party in interest. See, *Barbina v. Curry*, 221 W.Va. 41, 650 S.E.2d 140 (2007); *James G. v. Caserta*, 175 W.Va. 406, 332 S.E.2d 872 (1985).

2. Defendant University of Charleston, Inc. (hereinafter referred to as "UC") is a corporation organized and existing under the law of the State of West Virginia, operating a private university with a campus located in the City of Charleston, Kanawha County, West Virginia.

3. Defendant JOHN DOE is a current or former student at UC, whose last known address was a residence hall located on the UC's campus, located in the City of Charleston, Kanawha County, West Virginia.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the parties to this action because UC has its principal place of business located in Kanawha County West Virginia.

5. This Court has jurisdiction over the subject matter of this action because it arose out of acts and/or omissions committed in the State of West Virginia, and the amount in controversy exceeds the minimum jurisdictional amount.

6. Venue is appropriate in this Court under West Virginia Code § 56-1-1.

FACTS

7. In the fall semester of 2017, B.C. was enrolled as a freshman student at UC. B.C. lived on campus and resided in a residence hall located on campus at 2300 MacCorkle Avenue, SE, Charleston, West Virginia.

8. B.C. was from Florida. She was only eighteen years old at the time of the events giving rise to the Complaint. This was her first semester in college, and her first experience living away from her family, all of whom were located in the state of Florida. Among the reasons that B.C. chose to pursue her education at the University of Charleston, were UC's representations that the it provided a safe place to live and study.

9. Upon information and belief, JOHN DOE, was also a student attending UC during the fall semester of 2017. Upon information and belief, JOHN DOE was recruited to UC to play football at UC. JOHN DOE was a member of the football team and was also living on campus.

10. UC, through its recruiting process, knew or should have known that JOHN DOE presented an unreasonable risk to other students, including B.C.

11. B.C. could not know, until she moved into her residence hall, that the UC did not adequately protect its students from the dangers of crime, including but not limited to sexual assault.

12. On or about October 6, 2017, one or more students, including JOHN DOE, brought alcohol into B.C.'s residence hall, where it was consumed by underage students.

13. On or about October 6, 2019, JOHN DOE sexually assaulted B.C. in her residence hall.

14. Despite B.C. making clear that she did not consent to sexual intercourse, JOHN DOE continued to assault B.C. and did not stop until he ejaculated.

15. A residence hall administrator discovered B.C. the morning after she was assaulted.

16. B.C. was traumatized by what had happened to her. B.C. found the courage to tell a friend about the incident. This led to her visiting an emergency room for treatment, and ultimately reporting the incident to law enforcement.

17. In the days that followed her assault, B.C. became increasingly aware of what JOHN DOE had done to her, and soon found it impossible to remain on campus, so far from home, where she could not feel safe.

18. Among the reasons that B.C. could not remain on campus, was the fact that UC did not immediately remove JOHN DOE from its campus. Upon information and belief, JOHN DOE was permitted to attend classes after the assault and was permitted to participate on the football team for a period of time even after B.C. had reported the sexual assault.

19. B.C. was forced to abandon her studies and return home to Florida because she could no longer feel safe on campus. Adding insult to injury, UC did not refund the monies B.C. paid to attend UC and have continued to seek payment of certain fees from B.C. in connection with the brief time she attended the university.

20. Weeks after the assault, UC informed B.C. that JOHN DOE had been expelled from the college. However, this was long after B.C. had been forced to leave and could no longer salvage the semester of education.

COUNT I - NEGLIGENCE AGAINST UC

21. This paragraph incorporates by reference all of the preceding paragraphs the same as if each had been set forth verbatim herein.

22. The sexual assault was foreseeable, and preventable by UC.

23. UC owed B.C. and other students attending its college a duty to adequately maintain its campus so as to reduce the risk of harm to its students.

24. UC owed B.C. and other students attending its college a duty to effectively screen and supervise athletes and other students recruited to the campus.

25. UC owed B.C. and other students attending its college a duty to adequately maintain its campus so as to provide an adequate learning and living environment for students that minimized the threat of sexual abuse and/or harassment.

26. UC was negligent, and breached its duties owed to B.C. by its acts and omissions which include:

a. Failing to adopt and employ sufficient measures so as to reduce the risk of sexual abuse and sexual harassment to those on its campus;

b. Failing to adopt and employ sufficient measures regarding the recruitment and acceptance of students so as to reduce the risk of sexual abuse and sexual harassment to those on its campus;

c. Failing to adopt and employ sufficient measures to reduce the risks of harm presented by underage drinking;

d. Failing to provide adequate supervision and/or policing of those on its campus to prevent the risks associated with underage drinking;

e. Failing to provide adequate supervision and/or policing to reduce the risks of sexual assault; and

f. Failing to have sufficient policies and procedures in place to address the needs of students reporting sexual assault.

27. As a direct and proximate result of UC's negligence B.C. has suffered damages for which she is entitled to recover.

COUNT II – ASSAULT AND BATTERY AGAINST JOHN DOE

28. This paragraph incorporates by reference all of the preceding paragraphs as if they were set forth verbatim herein.


29. JOHN DOE willfully intended to cause unlawful harmful and offensive contact with B.C.'s person.

30. JOHN DOE did cause unlawful harmful and offensive contact with B.C.'s person.

31. As a direct and proximate result of JOHN DOE'S intentional conduct, B.C. suffered damages for which she is entitled to recover.

WHEREFORE, Plaintiff B.C. demands judgment against the Defendants in an amount sufficient to compensate her for the extreme emotional and physical harm she suffered and from which UC had a duty to protect the Plaintiff. Plaintiff also seeks to recover any other damages that this Court or a jury deems appropriate, including any attorney's fees and costs, and punitive damages as may be available under the law.

B.C.
By Counsel,


Robert P. Lorea (WVSB #7476)
Lorea Law Office PLLC
108 ½ Capitol Street, Suite 200
Charleston, WV 25301
Telephone: (304) 941-0529
Facsimile: (304) 344-5529
RPL@LoreaLaw.com